APPENDIX A-1

COURT OF APPEALS OF KENTUCKY

FALL TERM—OCTOBER 30, 1970

JEFFERSON COUNTY TEACHERS ASSOCIATION, Et Al.

v.

BOARD OF EDUCATION OF JEFFERSON COUNTY, KENTUCKY

MANDATE

Appeal from a judgment of the Chancery Branch—1st Div. Jefferon Circuit Court

The Court being sufficiently advised, it seems there is no error in the judgment herein.

It is therefore considered that said judgment be affirmed; which is ordered to be certified to said court.

It is further considered that the appellee recover of the appellants their cost herein expended.

A copy—Attest:

Dick Vermillion, C. C. A.
By (s) John C. Scott, D. C.

Issued March 19, 1971

APPENDIX B

Judgment of Circuit Court of Jefferson County, Kentucky Granting Temporary Injunction

and

Judgment of Circuit Court of Jefferson County, Kentucky Granting Permanent Injunction

---

JEFFERSON CIRCUIT COURT

CHANCERY BRANCH, FIRST DIVISION

No. 136009

BOARD OF EDUCATION OF JEFFERSON COUNTY, KENTUCKY - - - - - - - - - *Plaintiff*

v.

JEFFERSON COUNTY TEACHERS ASSOCIATION, ET AL. - - - - - - - - - *Defendants*

TEMPORARY INJUNCTION

ORDERED, ADJUDGED AND DECREED that the individual defendants, the members of the defendant classes herein, the defendant unincorporated associations, and the defendant unincorporated labor organization, their officers, agents and representatives be and they hereby are restrained and enjoined from aiding, abetting, inducing, encouraging, sanctioning, condoning, or otherwise causing and participating in a concerted work stoppage or strike by the teachers in the public schools of Jefferson County, Kentucky in violation of said teachers' respective and various contracts of employment with the plaintiff; and

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that all the defendants herein as above stated, be and they hereby are restrained and enjoined from engaging in, participating in, inducing or encouraging a concerted refusal by the teachers of the public schools of Jefferson County, Kentucky in the course of their employment to withhold the services required by them under their various and respective contracts of employment with the plaintiff; and

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that this Temporary Injunction be and the same is hereby effective until further order of this Court.

(s) MACAULEY SMITH
Judge

Date: Feb. 28, 1970 4:17 PM

Tendered By:

(s) E. GERRY BARKER
1006 Kentucky Home Life Bldg.
Louisville, Kentucky 40202
587-6763

(s) E. PRESTON YOUNG
704 Louisville Trust Bldg.
Louisville, Kentucky 40202
585-4168

Attorneys for Plaintiff

JEFFERSON CIRCUIT COURT

CHANCERY BRANCH, FIRST DIVISION

No. 136009

BOARD OF EDUCATION OF JEFFERSON COUNTY, KENTUCKY - - - - - - - - - *Plaintiff*

v.

JEFFERSON COUNTY TEACHERS ASSOCIATION, Et Al. - - - - - - - - - *Defendants*

MOTION—ORDER

Comes now the plaintiff and respectfully moves the Court to make the temporary injunction heretofore entered on February 28, 1970, a permanent injunction in a final judgment.

(s) E. GERRY BARKER
1006 Kentucky Home Life Bldg.
Louisville, Kentucky 40202
587-6763

(s) E. PRESTON YOUNG
704 Louisville Trust Building
Louisville, Kentucky 40202
585-4168

Attorneys for Plaintiff, Board of Education of Jefferson County, Kentucky

ORDER

Upon motion of the plaintiff, the Court having reviewed the pleadings and having heard extensive evidence on behalf of all parties herein on February 28, 1970, and being otherwise sufficiently advised, it is

ORDERED, ADJUDGED AND DECREED that the temporary injunction heretofore entered in this case on February 28, 1970, be, and the same hereby is, made permanent as a final judgment for all purposes.

Entered at Louisville, Kentucky, this 12th day of March, 1970.

(s) MACAULEY SMITH
Judge

Date Mar. 12, 1970

Notice of filing waived:

(s) CHARLES MCCONNELL
Attorney for JCTA and KEA

(s) WILLIAM FRIEDLANDER
Attorney for Louisville and Jefferson County Federation of Teachers

APPENDIX C

Complete Text of Chapter 336, Kentucky Revised Statutes

CHAPTER 336
DEPARTMENT OF LABOR

336.010 [1599c-4] **Definitions for KRS 336.010 to 336.160.**

As used in KRS 336.010 to 336.160, unless the context requires otherwise:

(1) "Commissioner" means Commissioner of Labor; and

(2) "Department" means Department of Labor.

336.020 [4618-111] **Commissioner and division of department.**

The department shall be headed by a Commissioner of Labor, and shall be divided for administrative purposes into such divisions as the commissioner, with the approval of the Governor, determines. (1966 c 255, § 252. Eff. 6-16-66. 1942 c. 19, § 2(1))

336.030 [1599c-6; 4767a-3] **Employes; appointment; salaries.**

The commissioner, with the approval of the Governor, shall apoint necessary deputies, attorneys, statisticians, inspectors and other employes and fix their salaries according to law. These employes shall receive their actual necessary expenses.

336.040 [1599c-7; 4618-110] **Functions and duties of department.**

(1) The department shall exercise all administrative functions of the state concerned wih employer-employe relationships, including:

(a) Safety of workers; and

(b) The Workmen's Compensation Board. (1966 c 255, § 253. Eff. 6-16-66)

(2) The department shall:

(a) Promote friendly and cooperative relations between employers and employes;

(b) Accumulate and publish industrial statistics and aid and encourage the development of new industries and the expansion of existing industries in Kentucky;

(c) Encourage, promote and develop fair practices both by employers and employes; discourage and eliminate as far as practicable all unfair practices by either, and enforee laws relating to unfair practices;

(d) Foster, promote and develop the welfare of both wage earner and industries in Kentucky;

(e) Improve working and living conditions of employes and advance their opportunities for profitable employment; and

(f) Inquire into the causes of accidental injuries and occupational diseases arising out of and in the course of employment, and advance measures for the prevention of accidents and occupational diseases and for the improvement of sanitary conditions in places of employment. (1966 c 255, § 253. Eff. 6-16-66)

336.050 [1599c-39; 4767a-3] **Duties of commissioner.**

The commissioner in person or by representative shall:

(1) Investigate and ascertain the wages of all women and minors employed in this state.

(2) Enter the place of business or employment of any employer of women or minors to examine and inspect all books, registers, pay rolls, and other records that have a bearing upon the question of wages of women or minors, and to ascertain whether the orders of the commissioner are complied with; and

(3) Require from the employer a full and correct statement in writing when the commissioner or his representa-

tive considers it necessary, of the wages paid to all women and minors in his employment.

(4) Upon complaint, prosecute any violation of any of the provisions of any law which it is his duty to administer or enforce.

336.060 [1599c-12; 1599c-13; 4767a-3] **Authority to issue and serve subpoenas, take depositions; enforcement of subpoenas.**

(1) In the conduct of an investigation or hearing, the commissioner or any authorized deputy may issue subpoenas to compel the attendance of witnesses and parties and the production of books, papers and records competent and relevant to the matter under investigation; administer oaths; examine witnesses under oath; take the verification or proof of written instruments; and take testimony, depositions and affidavits to carry out any law over which the department has jurisdiction. (1946 c 244. Eff. 6-19-46)

(2) If any person called for an appearance not more than fifty miles from the place of service fails to obey the subpoena, the commissioner, or his authorized deputy or attorney, may apply to the circuit court having jurisdiction either of the parties or the subject matter. Unless sufficient reason is shown for failure to obey the subpoena, the circuit court shall enforce it and punish any violation as a contempt of court. (1946 c. 244. Eff. 6-19-46)

(3) Subpoenas issued under this section may be served by an inspector or other authorized representative of the department, at any place in the state. (1946 c 244. Eff. June 19, 1946.)

336.070 [33a-7; 1599c-9] **Investigation of working conditions.**

The department shall make investigations, collect and compile statistics and report on the conditions of industries,

labor and unemployment, and upon all matters relating to employer-employe relations and working conditions. Complete permanent records shall be made of all investigations, showing date of examination, condition in which the establishment was found, and changes ordered.

336.080 [33a-6; 1599c-10] **Inspection of places of employment.**

The commissioner may have inspected any place of employment affected by or subject to any law of this state relating to the employment of labor, except places of employment within the jurisdiction of the Department of Mines and Minerals. In the discharge of his duties, the commissioner or his authorized deputy, may enter places of employment at any reasonable time. Upon request, the department shall furnish to any employer a detailed report of any inspection in his place of business.

336.090 [33a-10] **Inspectors to report violations of health and fire laws and rulings.**

(1) The department shall be furnished with a copy of all the laws and rulings of the State Board of Health affecting sanitary conditions in places of employment, not covered by the labor laws of the state, and shall report in writing to the state, county or city health authorities any violations coming under the observation of its inspectors while visiting places of employment in the regular performance of their duty. (1966 c 255, § 254. Eff. 6-16-66)

(2) The inspectors shall be furnished with a copy of all the laws and rulings of the Department of Public Safety relating to fire hazards in places of employment, and shall report in writing to the state, county or city authorities any violations coming under their observation while visiting places of employment in the regular performance of their duty. (1966 c. 255, § 254. Eff. 6-16-66)

336.100 [33a-11] **Notice of occupancy of place of employment to be given.**

Within one month after any employer begins to occupy a factory, workshop, mill or other place of employment he shall notify the department, in writing, of such occupancy. If the employer is a corporation, the notice shall state the legal title of the corporation and name of an agent upon whom service of summons can be made; and if a firm, the individual names of members of the firm and its legal title.

336.110 [33a-8] **Unlawful to refuse to admit inspector.**

No person shall refuse or attempt to prevent the admission of any inspector of the department to any place which he is required by law to inspect, at any reasonable hour, or during the working hours of the persons employed there, or interfere with the performance of the official duties of any inspector. Penalty, 336.990(2)

336.120 [1599c-14] **Cooperation with Federal agencies.**

The commissioner, with the approval of the Governor, may enter into cooperative agreements with appropriate agencies of the Federal Government, whereby Acts of Congress and regulations issued in pursuance thereof affecting the employment of labor within this state may be administered, supervised, inspected and enforced by the department. Similar agreements may be entered into by the commissioner with the approval of the Governor, for the cooperation of Federal agencies in the enforcement of state laws whose enforcement is vested in the commissioner.

336.130 [1599c-28] **Employes may organize, bargain collectively, strike, picket; conduct prohibited.**

(1) Employes may, free from restraint or coercion by the employers or their agents, associate collectively for self-organization and designate collectively representatives of their own choosing to negotiate the terms and conditions of their employment to effectively promote their own rights

and general welfare. Employes, collectively and individually, may strike, engage in peaceful picketing, and assemble collectively for peaceful purposes.

(2) Neither employers or their agents nor employes or associations, organizations or groups of employes shall engage or be permitted to engage in unfair or illegal acts or practices or resort to violence, intimidation, threats or coercion.

336.140 [1599c-8] **Commissioner to investigate and mediate labor disputes.**

The commissioner may inquire into the cause of strikes, lockouts and other disputes between employers and employes, and endeavor to effect an amicable settlement. He may create within the department boards to which disputes between employers and employes may be submitted on request of both the employer and the employes for mediation. Where a joint wage agreement, existing between an employer and any labor organization, provides for the settlement of disputes, any disputes that arise shall be settled by the terms of the contract, and when so settled shall be binding and final upon the commissioner.

336.150 [1599c-29] **Conciliation of labor disputes; joint wage agreement; federal jurisdiction to supersede.**

(1) The commissioner may act as conciliator and mediator and appoint conciliators and mediators in labor disputes whenever his intervention is requested by either party. He may also offer his services as conciliator and mediator if any emergency by reason of a labor dispute is found to exist at any time. If the parties accept conciliation and mediation, the commissioner, in the course of such conciliation and mediation, may hold hearings to determine the reason for the labor dispute and receive the testimony of witnesses under oath. Any findings of fact made by him in connection with the hearing shall be reduced to

writing and made a public record of his department. If the Governor directs, the commissioner shall take any steps he considers proper to effect a voluntary, amicable settlement of differences between employer and his employes.

(2) In any labor dispute in which the services of the commissioner as conciliator and mediator have been accepted by both parties, no strike or lockout shall take place pending the efforts of the commissioner or his authorized representatives to conciliate and mediate the dispute. When the services of the commissioner as conciliator and mediator are accepted by both parties to a labor dispute, he shall promptly investigate and undertake to conciliate and mediate it without delay. No agreement accepting the service of the commissioner shall be binding on either party for longer than fifteen days, but the term may be extended by mutual consent of the parties to the agreement.

(3) Nothing in this section shall apply where a joint wage agreement provides for settlement of disputes. Any dipute arising under such agreement shall be settled according to it. Nothing in KRS 336.130 or this section shall apply where the authority of a Federal agency has been invoked or a Federal agency assumes jurisdiction. If the commissioner has assumed jurisdiction, and a Federal agency thereafter assumes jurisdiction, the authority of the commissioner shall cease pending Federal jurisdiction.

336.160 [1599c-11] **Reports to General Assembly.**

The commissioner shall present biennal reports to the General Assembly giving statistical data relating to employment and unemployment in the state, such as the hours and wages of employes, cost of living, the amount of labor required, the estimated number and classification of persons unemployed, the estimated number of persons depending on daily labor for support, the probable chances of increased employment, the number of unemployed depend-

ing on public relief, facts relating to industrial accidents, the workers' compensation for industrial injuries, labor disputes, and facts relating to acts of the department in the enforcement of the law and its work generally.

LABOR ORGANIZATIONS

336.170 Certain national and international labor organizations to have local units in Kentucky.

(1) It shall be unlawful for any national or international labor organization having one hundred or more members in good standing who reside or work in Kentucky not to have at all times one or more duly chartered and established local or subsidiary organizations in this State. (1952 c 164, § 1. Eff. 6-19-52)

(2) Any national or international labor organization which violates subsection (1) of this section shall, for each offense, be fined not less than one thousand dollars nor more than ten thousand dollars. (1952 c. 164, § 2. Eff. 6-19-52.)

336.180 "Labor organization" defined.

As used in KRS 336.190 and 336.200, unless the context requires otherwise, the term "labor organization" means any organization of any kind, or any agency or employe representation committee or plan, in which employes participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment or conditions of work. (1962 c. 303, § 1. Eff. 6-14-62)

336.190 Unlawful practice by carrier, shipper.

It shall be unlawful for any carrier or shipper of property, or any association of such carriers or shippers, to agree to pay, or to pay, to or for the benefit of a labor organization, directly or indirectly, any charge by reason of the placing upon, delivery to, or movement by rail, or by a railroad car, of a motor vehicle, trailer or container

which is also capable of being moved or propelled upon the highways. (1962 c 303, § 2. Eff. 6-14-62) Penalty, 336.990(3)

336.200 Unlawful practice by labor organization.

It shall be unlawful for any labor organization to accept or receive or to agree to accept or receive from any carrier or shipper of property, or any association of such carriers or shippers, any payment described in KRS 336.190. (1962, c 303, § 3. Eff. 6-14-62) Penalty, 336.990(3)

336.990 [33a-8; 33a-13] **Penalties.**

(1) Upon proof that any person employed by the department as a labor inspector has taken any part in any strike, lockout or similar labor dispute he shall forfeit his office.

(2) Any person who violates KRS 336.110 shall for each offense be fined not less than twenty-five dollars nor more than one hundred dollars or imprisoned for not more than fifty days, or both.

(3) Any corporation, association, organization, or person that violates KRS 336.190 and 336.200 shall be fined not less than one hundred dollars nor more than one thousand dollars for each offense. Each act of violation, and each day during which such an agreement remains in effect, shall constitute a separate offense. (1962 c. 303, § 4. Eff. 6-14-62)

CERTIFICATION

This is to certify that three (3) copies of this Petition have been served by depositing same in a United States mail box with first class postage prepaid addressed to counsel of record for Respondent pursuant to Part VIII, Section 33, Rules of the Supreme Court.

McCONNELL & HAUCH

Chas. McConnell

CHARLES C. McCONNELL
306 Kentucky Home Life Building
Louisville, Kentucky 40202